

# HOUSE . . . . . No. 49

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Message from His Excellency the Governor submitting requests for making appropriations for the fiscal year 2013 to provide for supplementing certain existing appropriations and for certain other activities and projects. Ways and Means. January 24, 2013.

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## The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT

STATE HOUSE • BOSTON, MA 02133

(617) 725-4000



DEVAL L. PATRICK

GOVERNOR

TIMOTHY P. MURRAY

LIEUTENANT GOVERNOR

January 23, 2013.

To the Honorable Senate and House of Representatives:

I am filing for your consideration a bill entitled “An Act Making Appropriations for the Fiscal Year 2013 (FY13) to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.”

The legislation I am filing includes supplemental funding requests totaling \$16.7 M. Funding proposed in the bill includes the following:

- \$16 M in supplemental funding for Sheriff departments
- \$655 K for item pricing inspectors in the Commonwealth

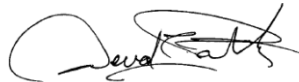
This legislation also includes technical amendments to the FY13 budget and other budget related language changes, including the following:

- Language related to several collective bargaining agreements that have been ratified since the passage of the FY13 GAA as well as other technical changes regarding collective bargaining.
- A technical change regarding the disposition of proceeds from the sale of the Edward J Sullivan Courthouse in Cambridge.

- Technical changes to allow the Department of Revenue to more accurately audit and pursue outstanding revenue obligations owed to the Commonwealth.
- A provision that broadens the eligibility of the application of the Room Occupancy Excise Tax.
- A section that provides for funding of a federal grants management system.
- A provision that provides funding for Senior Fire Awareness programs.
- A provision to codify a commission to study the Criminal Justice System.
- A provision to establish an advisory commission to study judicial salaries and court realignment in the Commonwealth.
- A provision to improve operational efficiency at the Massachusetts Treatment Center.
- A change that will allow MassHealth to screen clients to determine if they have won more than \$600 a month from the Massachusetts State Lottery.

I urge your prompt and favorable consideration of this bill.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deval Patrick", with a stylized flourish at the end.

DEVAL L. PATRICK

# HOUSE . . . . . No. 49

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## The Commonwealth of Massachusetts

\_\_\_\_\_  
In the Year Two Thousand Thirteen  
\_\_\_\_\_

An Act making appropriations for the fiscal year 2013 to provide for supplementing certain existing appropriations and for certain other activities and projects.

*Whereas*, the deferred operation of this act would tend to defeat its purposes, which are forthwith to make supplemental appropriations for fiscal year 2013 and to make certain changes in law, each of which is immediately necessary to carry out those appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. To provide for supplementing certain items in the general appropriation act and  
2 other appropriation acts for fiscal year 2013, the sums set forth in section 2 are hereby  
3 appropriated from the General Fund unless specifically designated otherwise in this act or in  
4 those appropriation acts, for the several purposes and subject to the conditions specified in this  
5 act or in those appropriation acts, and subject to the laws regulating the disbursement of public  
6 funds for the fiscal year ending June 30, 2013. These sums shall be in addition to any amounts  
7 previously appropriated and made available for the purposes of those items.

8 SECTION 2.

9 SHERIFFS

10 *Middlesex Sheriff's Office.*

|    |                                     |             |
|----|-------------------------------------|-------------|
| 11 | 8910-0107.....                      | \$155,835   |
| 12 | <i>Franklin Sheriff's Office.</i>   |             |
| 13 | 8910-0108.....                      | \$1,227,768 |
| 14 | <i>Hampshire Sheriff's Office.</i>  |             |
| 15 | 8910-0110.....                      | \$472,718   |
| 16 | <i>Berkshire Sheriff's Office.</i>  |             |
| 17 | 8910-0145.....                      | \$697,353   |
| 18 | <i>Barnstable Sheriff's Office.</i> |             |
| 19 | 8910-8200.....                      | \$1,028,036 |
| 20 | <i>Bristol Sheriff's Office.</i>    |             |
| 21 | 8910-8300.....                      | \$2,728,490 |
| 22 | <i>Dukes Sheriff's Office.</i>      |             |
| 23 | 8910-8400.....                      | \$102,678   |
| 24 | <i>Norfolk Sheriff's Office.</i>    |             |
| 25 | 8910-8600.....                      | \$1,855,578 |
| 26 | <i>Plymouth Sheriff's Office.</i>   |             |
| 27 | 8910-8700.....                      | \$5,836,139 |

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*Suffolk Sheriff's Office.*

8910-8800.....\$1,854,299

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth in this section are hereby appropriated from the General Fund unless specifically designated otherwise in this section, for the several purposes and subject to the conditions specified in this section, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2013. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

*Division of Professional Licensure.*

7006-0065 The division of standards may retain not more than \$655,000 in revenue from registration fees and fines that it collects under sections 184B to 184E, inclusive, of chapter 94, and sections 56D and 56E of chapter 98, of the General Laws to support its enforcement activities as provided in subsection (h) of section 184D of said chapter 94, and, notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate, as reported in the state accounting system; provided, that notwithstanding said subsection (h), the division shall not fund the municipal grant program provided in said subsection (h).....\$655,000

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(e) For the purpose of accommodating timing discrepancies between the trust's receipt of revenues and related expenditures, the trust may incur expenses and the comptroller may certify payments from the trust in anticipation of trust receipts based on estimated receipts as certified by the trustee. Funds may be expended for services in prior fiscal years. The trustee shall insure that no expenditures from the trust shall cause the trust to be in deficiency at the close of a fiscal year.

#### **Commission to Study the Criminal Justice System**

SECTION 4. Chapter 6A of the General Laws is hereby amended by inserting after section 18L the following section:-

Section 18M. (a) There shall be a standing commission to study the commonwealth's criminal justice system, to consist of: the secretary of public safety and security, who shall serve as the chair, the attorney general or a designee, the chief justice of the supreme judicial court or a designee, the president of the Massachusetts Sheriffs' Association or a designee, the president of the Massachusetts District Attorneys' Association or a designee, the chief counsel of the committee for public counsel services or a designee, a representative from the Massachusetts Bar Association, a representative from the Boston Bar Association, a representative from the Massachusetts Association of Criminal Defense Lawyers, 3 members of the house of representatives, 1 of whom shall be appointed by the minority leader, 3 members of the senate, 1 of whom shall be appointed by the minority leader and 3 persons to be appointed by the governor, 1 of whom shall have experience in mental health and substance abuse and addiction treatment, 1 of whom shall have experience in providing services or supervision for offenders and 1 of whom shall have experience in juvenile justice.

(b) In reviewing the commonwealth's criminal justice system, the commission shall examine a variety of areas including, but not limited to: the prisoner classification systems, mandatory minimum sentences, sentencing guidelines, the provision of cost-effective corrections' healthcare, the probation system, the parole system, the operations of the sheriffs' offices, overcrowding in prisons and houses of correction, recidivism rates, the treatment of juveniles within the criminal justice system, the role that mental health and substance abuse issues play and best practices for reintegrating prisoners into the community.

(c ) The commission shall investigate the feasibility of developing an application for technical assistance from nationally recognized criminal justice reform programs with a data driven approach in order to develop bipartisan legislation that would reduce corrections spending and utilize the savings to reduce crime, strengthen public safety and fund other budget priorities; provided, however, that the commission shall give priority in applying for technical assistance to that which comes at no cost to the commonwealth.

(d) The commission shall have access to information related to both adults and juveniles, including, but not limited to, crime, arrest, conviction, jail, prison and probation and parole supervision data provided by state and local agencies. As necessary, the commission shall: (i) meet with other affected stakeholders, (ii) partner with nongovernmental organizations that have expertise that can benefit the commission, and (iii) create advisory subgroups that include affected stakeholders as necessary.

(e) The commission shall submit to the house and senate committees on ways and means, the joint committee on the judiciary, the joint committee on public safety and homeland security and the secretary of administration and finance quarterly reports that include the dates of its



meetings, meeting participants not named to the commission, and whether it has identified, applied for or been selected for any federal or other funds.

(f) The commission shall issue a report on or before March 31 of every year and additional reports as needed, which shall include recommendations for legislation to reduce recidivism, improve overall public safety outcomes, provide alternatives for drug addicted and mentally ill defendants, increase communication and cooperation among public safety entities, reduce overcrowding of facilities, increase reliance upon evidence-based criminal justice methods, improve the collection and reporting of data on adults and juveniles, contain correction costs and otherwise increase efficiencies within the state's public safety entities.

#### **Federal Grants Management Unit Costs**

SECTION 5. Chapter 7 of the General Laws is hereby amended by inserting after section 4F 1/2 the following section:-

Section 4F<sup>3</sup>/<sub>4</sub>. There shall be established and set up a separate account, to be known as the Commonwealth Federal Grants Management Trust, in this section called the trust. The secretary of administration and finance shall expend funds in the trust without further appropriation to support the purposes of the federal grants management unit within the office of commonwealth performance, accountability and transparency, established by subsection (e) of section 4A. The secretary shall charge all federal grants, an amount determined by the secretary for these purposes, not exceeding 1 per cent per grant and not exceeding an annual total amount of \$500,000, plus the one-time costs of any technology as determined by the secretary.

#### **Transmission of List of Winning Lottery Ticket Holders to MassHealth**

SECTION 6. Chapter 10 of the General Laws is hereby amended by striking out section 28B, as appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

Section 28B. The commission shall, on a monthly basis, transmit to the department of transitional assistance, the executive office of health and human services, office of Medicaid, and the IV-D agency, as set forth in chapter 119A, a list of all persons who were the holders of any winning ticket in excess of \$600 in the prior month. The information shall be provided in a format which is compatible with the automated data processing systems of these departments, or in any other form and format requested by the departments and offices to ensure the immediate identification of persons who may be receiving public assistance benefits. The information provided shall include the name, address and social security number of the holder of the winning ticket and the face value of the winning ticket.

#### **Division of Professional Licensure Trust Fund**

SECTION 7. (A) Section 35V of said chapter 10, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- The fund shall consist of 100 per cent of any fee increase that takes effect July 1, 2013 or after.

(B) Said section 35V of said chapter 10, as so appearing, is hereby further amended by striking out the sixth sentence and inserting in place thereof the following:- All moneys deposited into the trust fund that are unexpended at the end of the fiscal year and that total not more than 50 per cent of the division's expenditures for the previous fiscal year shall not revert to the General Fund.

#### **DOR Administrative and Technical Provisions**

154 SECTION 8.

155 Contingent Contracts and Agreements for Tax Revenue Maximization

156 (A) Chapter 14 of the General Laws is hereby amended by adding after section 3A the following  
157 section:-

158 Section 3B. (a)Notwithstanding any general or special law to the contrary, the commissioner  
159 may enter into contracts or interdepartmental service agreements for the purpose of identifying  
160 and pursuing increased tax revenue collections. The payments, or oversight costs or fees related  
161 to this section may be paid from the revenues collected, under standards established by the  
162 commissioner, without further appropriation, and the comptroller shall establish accounts and  
163 procedures to accomplish the revenue generation purposes of this section. Under such standards,  
164 compensation may be added to the amount of the tax and collected as a part thereof by the  
165 contractor or agency; deducted and retained by the contractor or agency from the amount of tax  
166 collected; or paid by the commonwealth from the amount of tax collected.

167 (b) The commissioner shall notify, in writing, the house and senate committees on ways and  
168 means 60 days before entering into any contract authorized under this section.

169 (c) The commissioner shall, as part of his annual report under section 6, list all agencies, private  
170 persons, companies, associations or corporations with whom the commissioner has agreements  
171 for identifying and pursing increase tax revenue collections during the fiscal year and the amount  
172 of taxes collected by and the compensation paid to each such agency, person, company,  
173 association or corporation.

(B) Section 16 of chapter 62C of the General Laws, as so appearing, is hereby amended by adding at the end of subsection (k), at line 114, the following 4 sentences:- In addition, each such person shall on or before March 20 of each year file an information return for the prior calendar year containing such information and in such form as the commissioner may, by rule or regulation, require, including but not limited to the total monthly sales amount to each person to whom it has made sales, exclusive of deposits required by sections 321 to 327 of chapter 94, and identifying information for such purchasers. If any person fails to file the information return required by this subsection, he shall be liable for a penalty of one thousand dollars for each such failure. The penalty shall be considered assessed by the issuance by the commissioner of a notice to the taxpayer setting out the amount of the penalty and the period for which the information return was due. No other notice nor any demand for payment shall be required as a prerequisite to the imposition or collection of a penalty imposed under this subsection, which shall be collected in the same manner as a tax. A penalty imposed by the commissioner for a failure to file an information return under this subsection shall be subject to subsection (f) of section 33 of this chapter relative to waiver of penalties.

#### Franchisor Reporting

(C) Said section 16 of said chapter 62C is hereby amended by adding after subsection (l) the following subsection:-

(m) Every franchisor that has at least one franchisee required to be registered under section 67 of chapter 62C as a sales tax vendor under chapters 64H, 64I or 64L shall on or before March 20 of each year file an information return for the prior calendar year containing such information and in such form as the commissioner may require, including but not limited to the total monthly

197 transactions the franchisor and each such person to whom he has made sales and identifying  
198 information for such purchasers. If any franchisor fails to file the information return required by  
199 this subsection, he shall be liable for a penalty of one thousand dollars for each such failure. The  
200 penalty shall be considered assessed by the issuance by the commissioner of a notice to the  
201 taxpayer setting out the amount of the penalty and the period for which the information return  
202 was due. No other notice nor any demand for payment shall be required as a prerequisite to the  
203 imposition or collection of a penalty imposed under this subsection, which shall be collected in  
204 the same manner as a tax. A penalty imposed by the commissioner for a failure to file an  
205 information return under this section shall be subject to subsection (f) of section 33 of this  
206 chapter relative to waiver of penalties.

#### 207 Electronic Records

208 (D) The first paragraph of section 24 of said chapter 62C, as so appearing, is hereby amended by  
209 adding the following sentence:- The taxpayer shall provide to the commissioner all accounting  
210 records and information in electronic format, as requested by the commissioner, to the extent that  
211 the taxpayer maintains such records in electronic format.

#### 212 Pass-Through Entity

213 (E) Said chapter 62C is hereby further amended by striking out section 24A and inserting in  
214 place thereof the following section:-

215 Section 24A.(a) Members or indirect owners of a pass-through entity shall report items of  
216 income, expense or credit derived from the pass-through entity in a manner consistent with the  
217 reporting of the pass-through entity, except to the extent that a taxpayer member or indirect  
218 owner makes a declaration of inconsistency with its original return.

(b) The commissioner shall establish by regulation unified audit procedures. The commissioner may audit, in a unified proceeding, a pass-through entity 1 or more of whose members or indirect owners are subject to tax under chapters 62 or 63; provided, however, that nothing in this section shall limit the ability of the commissioner to audit or assess individual members or indirect owners with respect to items derived from a pass-through entity or the ability of the commissioner to inspect books and records of a pass-through entity outside of a unified audit procedure. The determination of pass-through entity items shall be binding on all members and indirect owners participating in the unified audit procedure. For purposes of this section, “members and indirect owners participating in the unified audit procedure” shall mean all members and indirect owners of a pass-through entity subject to audit in a unified proceeding pursuant to this section, other than any such members or indirect owners that elect, pursuant to subsection (e), not to participate in the unified audit procedure. The commissioner's regulations shall establish the types of pass-through entities subject to unified audit proceedings which may include, but shall not be limited to, partnerships and S corporations. The regulations shall also provide for the designation by the pass-through entity of a tax matters partner who shall have the authority to represent all the members and indirect owners participating in the unified proceeding. The authority of the tax matters partner in a unified audit procedure shall include, but not be limited to, the following on behalf of members and indirect owners participating in the unified audit procedure: (i) receiving tax notices, (ii) representing members and indirect owners during the unified audit procedure and in administrative appeals with the commissioner, (iii) entering into settlement agreements with the commissioner under section 37C with regard to pass-through entity items and (iv) filing petitions with the appellate tax board and pursuing any subsequent judicial appeal with respect to a determination of pass-through entity items by the

commissioner. So far as practicable, the commissioner's regulations shall be modeled on federal rules.

(c) (1) A unified audit procedure commences when the commissioner so notifies the tax matters partner. Except as otherwise provided, the commissioner shall commence a unified audit procedure and issue a notice of determination of pass-through entity items within three years after the later of the date on which the entity's return for the taxable year was either filed or required to be filed, taking extensions into account. The three-year period shall be extended to the extent the statute of limitations for audit or assessment is extended under subsection (d). It shall be the responsibility of the tax matters partner to inform members of the pendency of the unified audit procedure. Such notice shall be provided in the manner and to the extent required in the partnership or other agreement governing the pass-through entity and its members. The failure of the tax matters partner to provide notice shall not affect the validity of the unified audit procedure with respect to all members and indirect owners participating in the unified audit procedure. The determination of pass-through entity items after the commencement of a unified audit procedure shall be made exclusively under the unified audit process, which except as specified in this section shall supersede the assessment and abatement process otherwise applicable under this chapter to members and indirect owners with respect to pass-through entity items. If, in the course of a unified audit procedure, it appears to the commissioner that the statement of pass-through entity items on the entity's return will result in a tax liability of members and indirect owners that is different from the correct amount, the commissioner shall give notice of proposed adjustments to the tax matters partner and other members specified in regulations issued by the commissioner. Within 30 days of such notice, the tax matters partner or other members specified in regulations issued by the commissioner may request a conference

with regard to proposed adjustments of pass-through entity items. After unified audit administrative proceedings are concluded, the commissioner shall issue a notice of determination of pass-through entity items to the tax matters partner. The tax matters partner or other members specified in regulations issued by the commissioner may petition the appellate tax board for review of the determination of pass-through entity items within 60 days after the determination of pass-through entity items has been sent to the tax matters partner. The appellate tax board shall have jurisdiction to decide petitions under this section, and its decision shall be a final decision of the board for the purpose of the right to a judicial appeal.

(2) If no petition is filed with the appellate tax board as provided in this subsection, the determination of pass-through entity items shall become a final determination the day after the last date on which the pass-through entity may appeal the determination of pass-through entity items. If a timely petition is filed with the appellate tax board, the determination of pass-through entity items shall become a final determination on the later of (i) the date of the appellate tax board decision or subsequent final judicial decision, or (ii) the day after the date on which the right to any further appeal expires. After a final determination of pass-through entity items is made, the commissioner shall assess or abate members and indirect owners in accordance with such final determination. The commissioner shall not be required to issue a notice of intent to assess prior to assessment.

(d)(1) Except as provided in this subsection, the statute of limitations for the assessment of tax of a member or indirect owner with respect to a pass-through entity item or an item affected by a pass-through entity item for a taxable year to which pass-through entity items relate shall not expire before the latest of: (i) the assessment period, including subsections (d) or (h) of section 26, applicable to the taxpayer member or indirect owner for tax periods to which pass-through



entity items relate; or (ii) one year after the date the determination of pass-through entity items becomes a final determination of pass-through entity items as described in paragraph (2) of subsection (c).

(2) Subsections (d) and (h) of section 26 shall apply to returns filed by a pass-through entity; in such cases, the commissioner may conduct a unified audit of pass-through entity items and reach final determination of such items during such extended time periods as are consistent with those described in said subsections (d) and (h).

(3) The tax matters partner or other person authorized by a pass-through entity may enter into a written agreement with the commissioner following the procedures under section 27 to extend the statute of limitations for the conduct of a unified audit procedure and determination of pass-through entity items.

(4) A member or indirect owner participating in the unified audit procedure may, within six months of such assessment or abatement made after a final determination of pass-through entity items in accordance with paragraph (2) of subsection (d), challenge the computation of tax as it applies to that taxpayer by filing an application for abatement pursuant to the procedures under section 37, provided that such application shall be limited to computational matters on the member's or indirect owner's return attributable to pass-through entity items and shall not contest the underlying determination of the pass-through entity items.

(e) Members or indirect owners of a pass-through entity may elect not to participate in a unified audit procedure by providing notice to the commissioner in such time and manner as the commissioner may require. Members or indirect owners who elect not to participate in the unified audit procedure shall follow the procedures provided under section 26 for pre-assessment

conferences and section 37 for abatement requests and appeals with respect to determining and disputing tax related to pass-through entity items; provided, however, that the statute of limitations for assessment of tax to members or indirect owners who have elected not to participate in the unified audit procedure with respect to pass-through entity items and affected items derived from a pass-through entity that is subject to a unified audit procedure shall not expire in any event any sooner than the end of the time period that is provided in clause (ii) of paragraph (1) of subsection (d) for the assessment of tax for members and indirect owners participating in the unified audit procedure.

#### **Tuition and Fee Waiver Program: Reimbursement**

SECTION 9. The third paragraph of section 19 of chapter 15A of the General Laws, as so appearing, is hereby amended by adding the following 3 sentences:- The institutions shall present to the military division an invoice for reimbursement of all tuition and fees waived under this program at the conclusion of each academic semester for which the tuition or fee waiver reimbursement is sought. The invoice shall contain the following information for each recipient: the recipient's name, educational level, number of credits, and amount of fees waived. The military division shall not be required to reimburse the institution for tuition or fees waived unless the institution submits the tuition or fee waiver reimbursement invoice at or before the conclusion of the academic semester for which the tuition or fee waiver reimbursement is sought.

#### **Veterans Independence Plus Initiative Trust Fund**

SECTION 10. Chapter 19A of the General Laws is hereby amended by adding the following section:-

Section 41. There shall be established upon the books of the commonwealth a separate fund to be known as the Veterans Independence Plus Initiative Trust Fund, in this section called the fund. The secretary shall be the trustee of the fund and may expend it, without further appropriation, for the administration of the Veterans Independence Plus Initiative, a joint initiative of the United States Department of Veterans' Affairs and the United States Administration on Aging. Revenues collected by the department from this initiative shall be deposited in the fund. The department may incur expenses, and the comptroller may certify for payment, amounts in anticipation of expected receipts; but no expenditure shall be made from the fund which will cause the fund to be in deficit at the close of a fiscal year. Any remaining balance in the fund at the end of a fiscal year shall not revert to the General Fund, but instead shall remain in the fund and be available to the department during the following fiscal year for the purposes of this section. The secretary may expend from the fund for services provided in prior fiscal years.

#### **Filing Fee for DPS Appeals**

SECTION 11. Section 21 of chapter 22 of the General Laws, as appearing in section 35 of chapter 68 of the acts of 2011, is hereby amended by adding the following subsection:-

(f) The commissioner may assess a fee for appeals filed under this section, to be determined by the secretary of administration and finance under section 3B of chapter 7.

#### **MassWorks Infrastructure Program Correction**

SECTION 12. Section 63 of chapter 23A of the General Laws, inserted by section 11 of chapter 238 of the acts of 2012, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) There shall be established within the executive office of housing and economic development a MassWorks infrastructure program, in this section called the “program”, to issue public infrastructure grants to municipalities and other public instrumentalities for design, construction, building, land acquisition, rehabilitation, repair and other improvements to publicly-owned infrastructure including, but not limited to, sewers, utility extensions, streets, roads, curb-cuts, parking, water treatment systems, telecommunications systems, transit improvements and pedestrian and bicycle ways. The program shall also provide for commercial and residential transportation and infrastructure development, improvements and various capital investment projects under the growth districts initiative administered by the executive office of housing and economic development. The grants shall be used to assist municipalities to advance projects that support job creation and expansion, housing development and rehabilitation, community development, and small town transportation projects; provided, however, that projects supporting smart growth as defined by the state’s sustainable development principles shall be preferred. The program may also be used to match other public and private funding sources to build or rehabilitate transit-oriented housing located within 0.25 miles of a commuter rail station, subway station, ferry terminal or bus station, at least 25 per cent of which shall be affordable.

#### **Technical Correction for Gaming Revenue Fund**

SECTION 13. The last sentence of paragraph (f) of subsection (2) of section 59 of chapter 23K of the General Laws, as inserted by section 16 of chapter 194 of the acts of 2011, is hereby amended by striking out the figure “25” and inserting in place thereof the following figure:- 20.

#### **Secure Vital Registry Trust Fund**

SECTION 14. (A) The second paragraph of section 33 of chapter 46 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following 2 sentences:-

This fee shall be determined annually by the secretary of administration and finance under section 3B of chapter 7. Notwithstanding any other general or special law to the contrary, the first \$20 of this fee received by the office of the town clerk that issues a certified copy from the database shall be paid by these officers upon their receipt into the city or town treasury, and the remainder shall be transferred to the Secure Vital Registry Trust Fund.

(B) Said chapter 46 is hereby further amended by inserting after section 34 the following section:-

Section 35. There is hereby established on the books of the commonwealth a separate fund known as the Secure Vital Registry Trust Fund, in this section called the trust. The trust shall consist of monies paid to the commonwealth pursuant to section 33. The state treasurer, ex officio, shall be the custodian of the trust, shall receive, deposit and invest all monies transmitted to him under this section, and shall credit interest and earnings on the trust to the trust. Funds collected pursuant to said section 33 shall be expended without further appropriation for the purpose of development, maintenance and operation of a centralized, automated database for the system of vital records and statistics in the manner directed by the commissioner of public health. In order to ensure that services established by the commissioner continue without interruption, the comptroller may certify for payment amounts in anticipation of revenues collected for the corresponding quarter during the previous fiscal year.

### **Improve Efficiency of Appellate Tax Board**

SECTION 15. (A) Section 1 of chapter 58A of the General Laws, as amended by section 15 of chapter 93 of the acts of 2011, is hereby amended by inserting after the first sentence the following sentence:- To be appointed a member, a person must be a member in good standing of the bar of the commonwealth with at least 5 years' experience in tax law or litigation or a real estate appraiser with a minimum of 5 years' experience holding the Appraisal Institute designation of MAI or SRA.

(B) Said section 1 of said chapter 58A, as so amended, is hereby further amended by inserting after the second sentence the following sentence:- In addition to the minimum qualifications to be appointed a member, the chairman must have proven knowledge of this chapter, the rules of practice and procedure of the board, and possess demonstrable administrative and management ability.

(C) The first paragraph of section 1A of said chapter 58A, as appearing in the 2010 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- A single member of the board may decide cases on appeal from a board of assessors as provided in section 7 or section 7A where the assessed value of the property involved does not exceed \$1,000,000.

(D) Section 7A of said chapter 58A, as so appearing, is hereby amended by striking out, in line 41, the figure "\$20,000" and inserting in place thereof the following figure:- \$500,000.

(E) Section 7B of said chapter 58A, as so appearing, is hereby amended by striking out, in lines 7, 8, 9, 11, 12 and 18, the figure "\$5,000" and inserting in place thereof, in each instance, the following figure:- \$25,000.

SECTION 16. (A) Section 1 of chapter 62D of the General Laws is hereby amended by striking out, in line 5 and in lines 42 and 43, as appearing in the 2010 Official Edition, the words “division of employment and training” and inserting in place thereof, in each instance, the following words:- department of unemployment assistance.

(B) Said section 1 of said chapter 62D, is hereby further amended by inserting after the word “debtor” in line 20, as so appearing, the following words:- ; an amount owed to the department of unemployment assistance.

(C) Said section 1 of said chapter 62D is hereby further amended by inserting after the word “bankruptcy”, in line 48, as so appearing, the following words:- ; a person owing a debt certified by the comptroller.

(D) Said section 1 of said chapter 62D is hereby further amended by inserting after the definition of “Debtor” the following definition:-

“Department”, the department of revenue.

(E) Said section 1 of said chapter 62D is hereby further amended by striking out the definition of “Refund” and inserting in place thereof the following 2 definitions:-

"Person", an individual, vendor, contractor, partnership, society, association, joint stock company, limited liability company, corporation, estate, receiver, trustee, assignee and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of persons.

“Refund”, an overpayment of any tax, including interest and penalties, that may be returned or credited to the taxpayer pursuant to sections 30, 31A, 36, 36A, 37 or 39 of chapter 62C, sections

27 or 27A of chapter 65, section 6 of chapter 65A, or any other general or special law that authorizes such a return or credit; but the commissioner shall not offset any refunds under this chapter payable to an operator as defined in section 1 of chapter 64G, a vendor as defined in section 1 of chapter 64H or section 1 of chapter 64I, or a direct broadcast satellite service provider as defined in section 1 of chapter 64M to the extent that the person is obligated under those chapters to repay the purchaser the amount for which the application for refund is made.

(F) Section 8 of said chapter 62D, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 12, the words “the General Fund” and inserting in place thereof, the following words:- a separate revolving fund to be used by the department, without appropriation, to defray its administrative costs in operating the set-off program.

(G) Section 13 of said chapter 62D is hereby amended by striking out, in lines 6 and 7, as so appearing, the words “unpaid division of employment and training liabilities” and inserting in place thereof, the following words:- unpaid department of unemployment assistance liabilities.

(H) Said section 13 of chapter 62D is hereby further amended by striking out the word “and”, in line 12, as so appearing.

(I) Said section 13 of chapter 62D is hereby further amended by inserting after the words “chapter 7A”, inserted by section 14 of chapter 142 of the acts of 2011, the following words:- ; (x) unpaid federal nontax liabilities to a federal agency pursuant to section 15; and (xi) unpaid tax liabilities of another state pursuant to section 16.

(J) Said chapter 62D is hereby further amended by adding the following 2 sections:-



Section 15. (a) As used in this section, the following words shall have the following meanings, unless the context clearly requires otherwise:

“Federal official”, a unit or official of the federal government charged with the collection of federal nontax liabilities payable to the federal government and with the authority to enter into the offset agreement.

“Federal nontax liability”, a delinquent nontax liability certified by a federal official including, but not limited to, interest, penalties, fines, fees and other nontax assessments imposed by or payable to the federal government that are finally determined to be due and owing.

“Offset agreement”, the agreement between the commissioner, the state comptroller, and the Secretary of the Treasury authorized by this section and section 19 of chapter 7A.

“State tax liability”, a delinquent tax liability certified by the commissioner including, but not limited to, any tax, interest, penalties or other additions to a tax imposed by or payable to the commonwealth that are finally determined to be due and owing pursuant to chapter 62C.

(b) Notwithstanding any other general or special law to the contrary, in coordination with the comptroller under section 19 of chapter 7A, the commissioner may enter into an offset agreement with the Secretary of the Treasury to participate in a reciprocal Treasury Offset Program pursuant to 31 U.S.C. section 3716 for the collection of any state tax liabilities owed to the commonwealth from federal payments to vendors and contractors. The offset agreement may provide for the United States to submit federal nontax liabilities owed to federal agencies for offset against refunds otherwise due and owing to taxpayers.

(c) Pursuant to the offset agreement, a federal official may: (1) provide certification to the commissioner the existence of a person's delinquent, federal nontax liability owed by the person to the federal government by providing: (i) the full name and address of the person and any other names known to be used by the person; (ii) the social security number or federal tax identification number of that person; (iii) the amount of the federal nontax liability; (iv) a statement certifying that the liability is past due, that due process has been provided and that the liability is legally enforceable in the amount certified, which may be provided in procedures for certifying payments in the offset agreement; and (v) any other information pursuant to the agreement; (2) request the commissioner to withhold any refund to which the person is entitled; and (3) retain a portion of the proceeds of any federal administrative setoff authorized by the federal offset program.

(d) As required or permitted by state law, federal law, or the offset agreement, the commissioner shall: (1) determine if a person for whom a certification is received is due a refund; (2) withhold a refund that is due a person whose name has been certified by a federal official; (3) notify the person of the amount withheld in satisfaction of a federal nontax liability certified by a federal official; (4) pay to the federal official the lesser of the entire refund or the amount certified plus any fee pursuant to subsection (g) and pay any refund in excess of such amount to the person.

(e) The commissioner may certify to a federal official a person's delinquent state tax liability owed to the commonwealth by providing the federal official: (i) the full name and address of the person and any other names known to be used by the person; (ii) the social security number or federal tax identification number of that person; (iii) the amount of the state tax liability; (iv) a statement certifying that the state tax liability is past due, that due process has been provided and that the liability is legally enforceable in the amount certified, which may be provided in

procedures for certifying payments in the offset agreement; and (v) any other information required by state statute or regulation applicable to the collection of the state tax liability by offset of federal payments to vendors and contractors.

(f) The commissioner may request that the federal official withhold the lesser of any federal vendor or contractor payment to which the person is entitled pursuant to the offset agreement or the amount certified plus any fee pursuant to subsection (g).

(g) The commissioner shall establish a reasonable administrative fee to be charged to the person for the provision of the state offset of a federal nontax liability or the federal offset of a state tax liability. The fee shall be a separate charge and may be withheld from any refund. Any state administrative fees may be retained by the commissioner and shall be deposited in a separate revolving fund to be used by the commissioner, without further appropriation, for the costs in operating the offset program.

(h) Notwithstanding section 21 of chapter 62C or any other law prohibiting disclosure by the department of the contents of taxpayer's records or information, all information exchanged to accomplish and effectuate the intent of this section is lawful.

(i) If an individual filed a joint income tax return and the federal nontax liability certified by a federal official is not the liability of both parties to the joint income tax return, the commissioner may not withhold or pay to the federal official that portion of the income tax refund attributable to the individual not owing the liability. The commissioner shall adopt procedures notifying parties to a joint income tax return of a proposed offset of a refund for a federal nontax liability certified by a federal official and shall allow the parties to such return 60 days to assert in writing that a portion of the income tax refund is attributable to the individual not owing the federal

522 nontax liability. If no such assertion by a party to the joint return is made within 60 days of  
523 notice, all of the refund shall be deemed attributable to the individual owing the liability.

524 Section 16. (a) As used in this section the following words shall have the following meanings,  
525 unless the context clearly requires otherwise:

526 “Other state tax liability”, a delinquent tax liability certified by the tax officer of the reciprocal  
527 state, including but not limited to, any tax, interest, penalties or other additions to a tax imposed  
528 by or payable to the participating state that are finally determined to be due and owing pursuant  
529 to the laws of such state.

530 “State”, any state or the District of Columbia which extends a like comity for the collection of  
531 taxes owed to the commonwealth and participates in the reciprocal offset program.

532 “State offset agreement”, the agreement between the commissioner and the tax officer of the  
533 state which allows the department and the state to participate in a reciprocal offset program.

534 “State refund”, an overpayment of any tax that is returned or credited to the taxpayer pursuant to  
535 the laws of the state.

536 “State tax liability”, a delinquent tax liability certified by the commissioner including, but not  
537 limited to, any tax, interest, penalties or other additions to a tax imposed by or payable to the  
538 commonwealth that are finally determined to be due and owing pursuant to chapter 62C.

539 "Tax officer", a unit or official of a state, or the duly authorized agent of such unit or official,  
540 charged with the imposition, assessment or collection of taxes of that state.

541 “Taxpayer”, a person identified by the commissioner or a tax officer as owing tax liabilities to  
542 the department or a state.

(b) Notwithstanding any other general or special law to the contrary, the commissioner may enter into a state offset agreement with a tax officer to participate in a reciprocal offset program for the collection of state tax liabilities owed to the commonwealth from state refunds due a taxpayer of the reciprocal state. The state offset agreement may provide for the state to submit other state tax liabilities to be offset against refunds due to commonwealth taxpayers.

(c) The commissioner may enter into state offset agreements with the tax officers of states relating to procedures and methods to be employed by the department and a state with respect to the operation of this section; information safeguards; and a requirement that the state shall not be allowed to request the collection of taxes through the remedy established under this section unless the tax is at least fifty dollars.

(d) Pursuant to the state offset agreement, a tax officer may: (1) provide certification to the commissioner the existence of a person's delinquent, other state tax liability owed by the person to the state by providing: (i) the full name and address of the person and any other names known to be used by the person; (ii) the social security number or federal tax identification number of that person; (iii) the amount of the other state tax liability due to such state, including interest and penalties; (iv) a statement certifying that the liability is past due, that due process has been provided and that the other state tax liability is legally enforceable in the amount certified, which may be provided in procedures for certifying payments in the state offset agreement; and (v) any other information pursuant to the agreement; (2) request the commissioner to withhold any refund to which the person is entitled; and (3) retain a portion of the proceeds of any setoff authorized by the state offset program.

(e) As required or permitted by state law and the state offset agreement, the commissioner shall:

(1) determine if a person for whom a certification is received is due a refund; (2) withhold a refund that is due a person whose name has been certified by a tax officer; (3) notify the person of the amount withheld in satisfaction of the other state tax liability certified by a tax officer; (4) pay to the state the lesser of the entire refund or the amount certified plus any fee pursuant to subsection (h) and pay any refund in excess of such amount to the person.

(f) The commissioner may certify to a tax officer a person's delinquent state tax liability owed the commonwealth by providing the tax officer: (i) the full name and address of the person and any other names known to be used by the person; (ii) the social security number or federal tax identification number of that person; (iii) the amount of the state tax liability; (iv) a statement certifying that the state tax liability is past due, that due process has been provided and that the liability is legally enforceable in the amount certified, which may be provided in procedures for certifying payments in the state offset agreement; and (v) any other information required by state statute or regulation applicable to the collection of the state tax liability by offset of state refunds due a taxpayer.

(g) The commissioner may request that the tax officer withhold the lesser of any state refund to which the person is entitled pursuant to the state offset agreement or the amount certified plus any fee pursuant to subsection (h).

(h) The commissioner and the state may establish a reasonable administrative fee to be charged to the person for the provision of the offsets. The fee shall be a separate charge and may be withheld from any refund or state refund due to the person. Any applicable administrative fees may be retained by the commissioner and shall be deposited in a separate revolving fund to be

used by the commissioner, without further appropriation, for the costs in operating the state offset program.

(i) Notwithstanding section 21 of chapter 62C or any other law prohibiting disclosure by the department of the contents of taxpayer's records or information, all information exchanged to accomplish and effectuate the intent of this section is lawful.

(j) If an individual filed a joint income tax return and the other state tax liability certified by a tax officer is not the liability of both parties to the joint income tax return, the commissioner may not withhold or pay to the state that portion of the income tax refund attributable to the individual not owing the liability. The commissioner shall adopt procedures notifying parties to a joint income tax return of a proposed offset of a refund for the other state tax liability certified by a tax officer and shall allow the parties to such return 60 days to assert in writing that a portion of the income tax refund is attributable to the individual not owing the liability. If no such assertion by a party to the joint return is made within 60 days of notice, all of the refund shall be deemed attributable to the individual owing the liability.

#### **Funding for Senior Awareness of Fire Education Program**

SECTION 17. Subsection (d) of section 2C of chapter 64C of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following 2 sentences:- The fund shall consist of all certification fees submitted by manufacturers. The secretary shall be the trustee of the fund and shall expend it without further appropriation, in addition to any other monies made available for these purposes, to support state processing, testing, enforcement, and oversight activities related to implementation of sections 2B to 2F, inclusive, and for a senior awareness of fire education program which shall include

608 education about the risk of fire to seniors and the purchase of safety devices for the benefit of at-  
609 risk seniors.

610 **Expand Room Occupancy Excise to Include Transient Accommodations**

611 SECTION 18. (A) Section 1 of chapter 64G of the General Laws, as appearing in the 2010  
612 Official Edition, is hereby amended by striking out the word “four”, in line 4, and inserting in  
613 place thereof the following figure:-1.

614 (B) Said section 1 of said chapter 64G, is hereby amended by striking out subsection (b).

615 (C) Section 1 of said chapter 64G of the General Laws, as so appearing, is hereby amended by  
616 inserting after the word “motel”, in line 29, the following words:- or other transient  
617 accommodations.

618 (D) Said section 1 of said chapter 64G, as so appearing, is hereby further amended by inserting  
619 after the word “rooms”, in line 33, the following words:- or other transient accommodations.

620 (E) Said section 1 of said chapter 64G, as so appearing, is hereby further amended by adding the  
621 following subsections:-

622 (k) “Transient accommodations”, any vacation or leisure accommodation, including, but not  
623 limited to an apartment, a single or multiple family housing, a cottage, a condominium or a time-  
624 share unit which is rented to occupants for a period of 90 consecutive days or less regardless of  
625 whether such use and possession is as a lessee, tenant, guest or licensee, but not including  
626 accommodations provided to seasonal employees by employers.



627 (I) “Vacation or leisure accommodation”, occupancy for a price to be paid and intended at the  
628 time of contract or agreement to be for a period of 90 consecutive days or less regardless of  
629 whether such use and possession is as lessee, tenant, guest or licensee.

630 (F) Section 3 of said chapter 64G, as so appearing, is hereby amended by striking out, in line 3,  
631 the words “or motel” and inserting in place thereof the following words:- motel or other transient  
632 accommodations.

633 (G) Section 3A of said chapter 64G, as so appearing, is hereby amended by deleting the words  
634 “or motel”, in line 4, and inserting in place thereof the following words:- motel or other transient  
635 accommodations.

636 (H) Said section 3A of said chapter 64G, as so appearing, is hereby further amended by striking  
637 out, in line 9, the words, “or motel” and inserting in place thereof the following words:- or other  
638 transient accommodations.

639 (I) Said chapter 64G is hereby further amended by adding the following section:-

640 Section 13. For transient accommodations subject to this section, the owner of the apartment,  
641 single or multiple family housing, cottage, condominium or time-share unit shall be responsible  
642 for assessing, collecting, reporting and paying over the tax as described for operators in sections  
643 3, 3A, 4, 5, 6 and 7A, and shall be liable in the same manner as operators in section 7B. If a  
644 property owner enters into a contract under which a real estate agent, manager or management  
645 company collects the rent, such real estate agent, manager or management company shall collect  
646 the room occupancy excise and shall be jointly liable with the owner for payment of tax amounts  
647 to the department of revenue. The commissioner of revenue may adopt regulations for the  
648 reporting, collecting, remitting and enforcement of this excise.

(J) This section shall be effective for transfers of occupancy subject to the excise under chapter 64G of the General Laws, commencing on or after January 1, 2014.

### **Fees for Inspection and Testing of Livestock and Poultry**

SECTION 19. The first paragraph of section 124 of chapter 94 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following 3 sentences:- The commissioner of the department of agricultural resources may impose additional livestock and poultry inspection and testing requirements in accordance with chapter 128 and chapter 129. A fee, as determined by the secretary of administration and finance under section 3B of chapter 7, may be charged for each inspection and testing of livestock and poultry and shall be deposited in the Agricultural Inspection and Infrastructure Trust Fund established under section 32 of chapter 20.

### **Elevator Fines**

SECTION 20. Section 65 of chapter 143 of the General Laws is hereby amended by striking out the second and third paragraphs, added by section 95 of chapter 68 of the acts of 2011, and inserting in place thereof the following 3 paragraphs:-

No elevator licensed under this chapter shall be operated without a valid inspection certificate.

An elevator shall be deemed to be operating for the purposes of this section unless it has been placed out of service or decommissioned in accordance with a procedure approved by the board.

If a certificate has expired, no new certificate shall be issued until a new inspection has been completed and no elevator shall be operated until a new certificate has been issued by a qualified state inspector. The owner or operator of an elevator who fails to comply with this section shall be punished by a fine of \$100 for each day that an elevator is in operation without a valid

certificate. Fines shall begin to accrue on the date that the elevator is determined to be unsafe. Fines shall stop accruing on the date on which the owner or operator has, in writing or in any manner prescribed by the department, requested an inspection of the elevator by the department. For any unit that has a travel distance of 25 feet or less and is located in a single- family owner-occupied residence in accordance with section 64, the maximum fine shall be \$5,000. For all other units, the maximum fine shall be \$20,000. The commissioner or the commissioner's designee, or another person as the commissioner may specifically authorize, may issue a written notice of violation under section 21 of chapter 22 for a violation of this section. The commissioner may assess a fee for appeals filed under this section, to be determined by the secretary of administration and finance under section 3B of chapter 7. Upon application for annual inspection, owners shall provide to the department a current mailing address for the location of the unit.

### **Open Enrollment Amendments**

SECTION 21. Subsection (a) of section 4 of chapter 176J of the General Laws, as amended by section 32 of chapter 118 of the acts of 2012, is hereby amended by striking out paragraphs (2), (3) and (4) and inserting in place thereof the following:-

(2) (i) A carrier shall enroll eligible individuals and eligible persons, as defined in section 2741 of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. section 300gg-41(b), into a health plan if such individuals or persons request coverage within 63 days of termination of any prior creditable coverage. A carrier shall also enroll eligible individuals and eligible persons, as permitted under the federal Patient Protection and Affordable Care Act, as

well as any rules, regulations or guidance applicable thereto, into a health plan offered through the Exchange.

(ii) A carrier shall also enable an eligible individual or person to renew his or her coverage if that coverage is available to other eligible individuals or eligible persons. Coverage shall become effective within 30 days of the date of application, subject to reasonable verification of eligibility, and shall be effective through December 31 of that same year.

(iii) Carriers shall notify eligible individuals and eligible persons of the following:

(1) coverage will be in effect only through December 31 in the year of enrollment;

(2) if the individual or person is in a health plan with a plan-year deductible or out-of-pocket maximum, an explanation of how that deductible or out-of-pocket maximum and premiums will be impacted for the period between the plan effective date and December 31 of the enrollment year; and

(3) the next open enrollment period during which the individual or person will have the opportunity to enroll in a health plan that will begin on January 1 of the following calendar year.

(iv) As of January 1, 2014, a carrier may not impose a pre-existing condition exclusion or waiting period of any duration on a health plan.

(3) (i) Notwithstanding the requirements set forth in paragraph (2) of this subsection, a carrier shall only enroll an eligible individual or eligible person who does not meet the requirements of paragraph (2) of this subsection into a health plan during the following annual open enrollment periods for eligible individuals and their dependents:

(1) There shall be two open enrollment periods during 2013, with the first period taking place beginning July 1, 2013 through August 15, 2013 and the second period taking place beginning October 1, 2013 through December 31, 2013;

(2) There shall be two open enrollment periods during 2014, with the first period taking place beginning January 1, 2014 through March 31, 2014 and the second period taking place beginning October 15, 2014 through December 7, 2014;

(3) In years following calendar year 2014, the open enrollment period shall be from October 15 through December 7, unless otherwise designated by the commissioner.

(ii) Notwithstanding the requirements set forth in paragraph (2) of this section, for coverage issued or renewed to eligible individuals and eligible persons that has an effective date beginning February 1, 2013 through March 31, 2013, carriers shall notify those individuals and persons of the following:

(1) coverage will be effective for a 12-month plan year from the date of the individual's or person's health plan effective date;(2) if the individual or person maintains coverage for the full 12-month plan year:

(A) the individual or person only may enroll for coverage to be effective after the plan year in a health plan that will be effective through December 31, 2014;

(B) the individual or person may enroll in a health plan effective on January 1, 2015 during the open enrollment period taking place beginning October 15, 2014 through December 7, 2014; and

(C) coverage issued to individuals or persons will be effective on January 1 in calendar years subsequent to 2014;

(3) the individual or person has the choice within the 12-month plan year to enroll in a different health plan during the open enrollment periods, and the carrier shall provide an explanation of the coverage effective dates that would apply during each open enrollment period, as well as the potential impact that such changes may have on the individual's or person's coverage and premiums, including an explanation of the impact on any health plans with plan year deductibles or plan year out-of-pocket maximums.

(iii) (1) Notwithstanding the requirements set forth in paragraph (2) of this section, for coverage issued or renewed to eligible individuals and eligible persons that has an effective date beginning April 1, 2013 through December 31, 2013, carriers shall make coverage effective through March 31, 2014.

(2) If the individual's or person's coverage includes a plan year deductible or plan year out-of-pocket maximum, the carrier shall issue a policy endorsement effective through the end of the coverage period, approved as to form and content by the commissioner, that modifies such coverage to pro-rate the deductible and out-of-pocket maximum to reflect that coverage will be in effect for less than a 12-month period; this policy endorsement shall only be available to individuals and persons with coverage subject to this paragraph.

(3) Carriers further shall notify such eligible individuals and eligible persons of the following:

(A) coverage will be in effect only through March 31, 2014;

(B) if the individual or person is in a health plan with a plan year deductible or plan year out-of-pocket maximum, the carrier shall describe how the deductible or out-of-pocket maximum and

premiums would be impacted for the period between the health plan's effective date in 2013 and March 31, 2014; and

(C) if the individual or person maintains coverage through March 31, 2014:

(I) the individual or person only may enroll during the January through March 2014 open enrollment period for coverage effective on April 1, 2014, which coverage will be effective only through December 31, 2014;

(II) if the individual or person is in a health plan with a plan-year deductible or plan-year out-of-pocket maximum, the carrier shall provide an explanation of how that deductible or out-of-pocket maximum and premiums would be impacted for the period between April 1, 2014 and December 31, 2014;

(III) the individual or person may enroll in a health plan effective on January 1, 2015 during the open enrollment period taking place beginning October 15, 2014 through December 7, 2014; and

(IV) coverage issued to individuals and persons will be effective on January 1 in calendar years subsequent to 2014.

(D) the individual or person has the choice prior to March 31, 2014 to enroll in a different health plan during the open enrollment periods, and the carrier shall provide an explanation of the coverage effective dates that would apply for each open enrollment period, as well as the potential impact that such changes may have on the individual's or person's coverage and premiums, including an explanation of the impact on any health plans with plan year deductibles or plan year out-of-pocket maximums.

(iv) (1) Notwithstanding the requirements set forth in paragraph (2) of this section, for coverage issued during the 2013 and 2014 open enrollment periods with an effective date beginning January 1, 2014 through May 31, 2014, carriers shall make coverage effective through December 31, 2014.

(2) If the individual's or person's coverage includes a plan year deductible or out-of-pocket maximum, the carrier shall issue a policy endorsement effective through the end of the coverage period, approved as to form and content by the commissioner, that modifies such coverage to pro-rate the deductible and out-of-pocket maximum to reflect that the coverage will be in effect for less than a 12-month period; this policy endorsement shall only be available to individuals and persons with coverage subject to this paragraph.

(3) Carriers further shall notify such eligible individuals and eligible persons of the following:

(A) coverage will be effective only through December 31, 2014;

(B) if the individual or person is in a health plan with a plan year deductible or plan-year out-of-pocket maximum, the carrier shall describe how that deductible or out-of-pocket maximum and premiums would be impacted for the period beginning with the health plan's effective date through December 31, 2014; and

(C) coverage issued to individuals or persons will be effective on January 1 in calendar years subsequent to 2014.

(v) (1) Notwithstanding the requirements set forth in paragraph (2) of this section, for coverage issued with an effective date beginning June 1, 2014 through December 31, 2014, carriers shall make coverage effective through December 31, 2014.



(2) Carriers further shall notify such eligible individuals and eligible persons of the following:

(A) coverage will be effective only through December 31, 2014;

(B) if the individual or person is in a health plan with a plan year deductible or out-of-pocket maximum, an explanation of how that deductible or out-of-pocket maximum and premiums will be impacted for the period between the plan effective date and December 31, 2014; and

(C) coverage issued to individuals or persons will be effective on January 1 in calendar years subsequent to 2014.

(4) Notwithstanding any other provision of this section or any general or special law, the office of patient protection may administer and grant enrollment waivers to permit enrollment not during a mandatory open enrollment period, to the extent permitted under the federal Patient Protection and Affordable Care Act, or any rules, regulations or guidance applicable thereto, to any eligible individual who certifies, under penalty of perjury, that such individual did not intentionally forego enrollment into coverage for which the individual is eligible and that is at least actuarially equivalent to minimum credible coverage.

#### **Technical Correction to Cyber Café Law**

SECTION 22. Section 5B of chapter 271 of the General Laws, inserted by chapter 187 of the acts of 2012, is hereby amended by striking the words “or (5)” and inserting in place thereof the following words:- (5) under chapter 23K; or (6).

#### **Massachusetts Sheriffs’ Association Account Number**

815 SECTION 23. Section 2 of chapter 139 of the acts of 2012 is hereby amended by striking the  
816 account number “8910-7100,” and inserting in place thereof the following account number:-  
817 8910-7110.

818 **Resources for DPU Competitively Priced Electricity**

819 SECTION 24. Chapter 209 of the acts of 2012 is hereby amended by adding after section 59 the  
820 following section:-

821 Section 60. Notwithstanding any general or special law or rule or regulation to the contrary, the  
822 department of public utilities shall be authorized to add resources as needed to implement this  
823 Act, the costs of which will be assessed directly on the gas and electric distribution companies,  
824 as authorized by section 18 of chapter 25 of the General Laws.

825 **Technical Correction to EOHEd Appropriations**

826 SECTION 25. Section 2C.1 of chapter 239 of the acts of 2012 is hereby amended by striking out  
827 under the heading “Executive Office of Housing and Economic Development” the word  
828 “Community” and inserting in place thereof the following:- Economic.

829 **EOHEd Trust Sunset Date Repeal**

830 SECTION 26. Sections 4A and 61 of chapter 239 of the acts of 2012 are hereby repealed.

831 **Improving Operations of Massachusetts Treatment Center**

832 SECTION 27. Section 104 of chapter 150 of the acts of 1990 is hereby amended by adding the  
833 following paragraph:-

For purposes of this section, the phrase "separate and apart" shall mean that persons committed or awaiting commitment as sexually dangerous persons as defined by section 1 of chapter 123A of the General Laws, shall be housed separately from inmates who are not civilly committed as sexually dangerous persons; all such persons, however, may commingle in common areas of the treatment center, including but not limited to the dining room, the general and law libraries, the gymnasium and the recreation yard, and may participate together in sex offender treatment and other therapeutic, rehabilitative , academic education, vocational education, vocational training and other related prevocational and employment programs at the discretion of the department of correction. The commissioner of correction shall adopt policies and procedures as to the management of the treatment center population consistent with public safety and the security and operational needs of the department of correction.

#### **Collective Bargaining Validation**

SECTION 28. The salary adjustments and other economic benefits authorized by the following collective bargaining agreements shall be effective for the purposes of section 7 of chapter 150E of the General Laws:

- (1) between the commonwealth and the Coalition of Public Safety, Unit 5;
- (2) between the commonwealth and the Professional Firefighters of Massachusetts, Unit 11;
- (3) between the Hampden sheriff and the National Correctional Employees Union, Unit SH4;
- (4) between the Hampden sheriff and the Non-Uniform Correctional Association, Unit SH2
- (5) between the Hampden sheriff and the Superior Correctional Officer Association, Unit SH3

**Deposit Cambridge Courthouse Sale Proceeds in General Fund**

SECTION 29. Notwithstanding subsection (e) of section 20 of chapter 304 of the acts of 2008, the net cash proceeds of the sale of the former Edward J. Sullivan Courthouse in the city of Cambridge shall be deposited in the General Fund.

**MassHealth Line Item Transferability**

SECTION 30. Notwithstanding any general or special law to the contrary, the secretary of health and human services, with the written approval of the secretary of administration and finance, may authorize transfers of surplus among items 4000-0320, 4000-0430, 4000-0500, 4000-0600, 4000-0700, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0895, 4000-0950, 4000-0990, 4000-1400, 4000-1405 and 4000-1420 of section 2 of chapter 68 of the acts of 2011 for the purpose of reducing any deficiency in these items, but any such transfer shall be made not later than August 30, 2012.

**Section 1202 Trust Fund**

SECTION 31. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Section 1202 Trust Fund, in this section called the fund. An amount equal to federal financial participation received for the portion of expenditures eligible for 100 percent federal financial participation under Section 1202 of the Patient Protection and Affordable Care Act and regulations adopted under it shall be deposited into the fund. The secretary of health and human services shall be the trustee of the fund, and shall expend it, without further appropriation, exclusively for services provided in calendar years 2013 and 2014 that are eligible for 100 per cent federal financial participation under Section 1202. The secretary may incur, and the comptroller may certify for payment from the fund, expenses in anticipation

of expected receipts; but no expenditure shall be made from the fund that shall cause it to be in deficit at the close of a fiscal year. Any remaining balances in the fund at the end of a fiscal year shall not revert to the General Fund, but instead shall be available during the following fiscal year for the purposes of this section. Funds may be expended for services provided in prior fiscal years. The fund shall expire on June 30, 2015.

### **Study Court Realignment and Judicial Salaries**

SECTION 32. (a) There shall be an advisory commission on court realignment and judicial salaries. The commission shall consist of the trial court administrator, who shall chair the commission, 3 members appointed by the chief justice of the supreme judicial court, the secretary of administration and finance or his designee, 2 members of the senate appointed by the president, 2 members of the house of representatives appointed by the speaker, 1 member of the senate and of the house of representatives appointed by the minority leader of each, and 1 representative of each of the Massachusetts and Boston Bar Associations.

(b) The commission shall recommend: (1) which courts shall be closed or realigned consistent with the interests of justice and of cost efficiency, including not fewer than 15 courts in the next decade; (2) how to consolidate court staffs, especially clerks of court; (3) how to expedite disposition and re-use of real property occupied by closed courts; and (4) whether and to what extent to increase judicial salaries, giving consideration to factors including recent increases in the cost of living, salaries of comparable judges in other states and the need to attract and retain excellent judges.

(c) The commission shall file its report with the clerks of the house of representatives and the senate not later than six months after the effective date of this act, and shall include in the report

899 a draft of legislation to carry out its recommendations. The general court shall consider whether  
900 to enact that legislation, without amendments of substance, not later than 45 days after receipt of  
901 that report.